

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE APPLICATION FOR LICENSURE OF

REUBEN SETLIFF, M.D., APPLICANT

CONSENT AGREEMENT


COMES NOW the Iowa Board of Medical Examiners (the Board), and Reuben Setliff, M.D. (the Applicant), and enter into the following Consent Agreement. The Board shall withdraw its order denying Applicant's application for Iowa Medical License, dated November 10, 1999. The Board shall issue the Applicant a permanent license to practice medicine and surgery in Iowa under the following terms, which have been imposed with the Applicant's consent.

1. Applicant is hereby granted a license to practice medicine in the State of Iowa subject to the Applicant's agreement to be bound by the terms set forth in this Consent Agreement.
2. Applicant shall, within fourteen (14) days of the date of this order, contact Deb Anglin, Coordinator, Monitoring Programs, Iowa Board of Medical Examiners, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, phone number 515-281-6491 to set up an intake appointment.
3. Applicant shall maintain adequate medical records of each patient's preoperative history to include the present illness/condition, past history, pertinent family history, any allergies, a review of systems, and a physical

examination to include any evidence of acute infection and any cardiorespiratory problems.

4. Applicant shall prepare and maintain operative reports to include a description of the procedure performed, tissue removed, orifices or anatomic structures altered, any complications or unforeseen events, and the condition of the patient at the completion of the procedure.
5. Prior to performing surgery on any child younger than two (2) years of age in a non-emergency situation, Applicant shall obtain and maintain a written second medical opinion justifying the need for the surgical procedure.
6. Applicant shall file sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of this Consent Agreement. The reports shall be filed not later than January 10, April 10, July 10, and October 10 for each year of this Order.
7. Applicant will promptly respond to all requests for information from the Board for purposes of verifying his compliance with this Consent Agreement.
8. Applicant shall make appearances before the Board or a Board committee upon request. Applicant shall be given reasonable notice for the appearances. Any such appearances shall be subject to the waiver provisions of 653 IAC 12.6(6)(d).
9. Applicant shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Iowa.

10. Applicant may not petition the Board for reconsideration or termination of the terms and provisions of this Consent Agreement for at least three (3) years from the date it is approved by the Board.
11. In the event Applicant violates or fails to comply with any of their terms and provisions of this Consent Agreement the Board may initiate action to revoke or suspend Applicant's license or impose other discipline as authorized in Iowa Code section 148.6 and 653 IAC 12.2.
12. This Consent Agreement is subject to the approval of the Board. If the Board fails to approve this Consent Agreement, it shall be of no force or effect to either party.
13. Applicant voluntarily submits this Consent Agreement to the Board for consideration.
14. The Board's approval of this Consent Agreement shall constitute a **FINAL ORDER** of the Board.

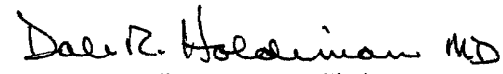

Reuben Setliff, M.D., Applicant



Subscribed to before me on May 3, 2000.

Notary Public State of Illinois.

Consent Agreement approved by the Board on May 12, 2000.

 MD

Dale R. Holdiman, M.D., Chairperson
Iowa Board of Medical Examiners
400 S.W. 8th St., Suite C
Des Moines, IA 50309-4686
Phone 515-281-6492

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE)	NO. 02-96-170
)	
COMPLAINT AND STATEMENT)	
)	
OF CHARGES AGAINST)	
)	
REUBEN SETLIFF, M.D.,)	RESPONSE TO INITIAL
)	DISCOVERY REQUEST
RESPONDENT.)	

COMES NOW the State of Iowa, and in response to Respondent Dr. Reuben Setliff's Initial Discovery Request states as follows:

1. The entire licensure file was previously provided to you.
2. A copy of the minutes of the meeting at which the Board reviewed Dr.

Setliff's application are attached as Exhibit A.

3. A copy of the Board's Notice of Denial, which sets forth the grounds for the Board's decision denying Dr. Setliff's application for Iowa medical licensure, was recently provided to you.

4. Joseph Sample
Director of Licensure
Iowa Board of Medical Examiners
400 S.W. 8th St., Suite C
Des Moines, IA 50309-4686
(515) 281-6492

B.J. Jennisch
Investigator
Iowa Board of Medical Examiners
400 S.W. 8th St., Suite C
Des Moines, IA 50309-4686
(515) 281-5171

5. One or both witnesses are expected to testify regarding the license application process and the information received during that process concerning Dr. Setliff's history of medical practice.
6. All information concerning the denial of Dr. Setliff's medical license application is contained in the Board's licensure file, which was previously provided to you.
7. All information which may be offered as evidence at hearing is contained in the licensure file, which was previously provided to you.
8. All investigative records and reports concerning Dr. Setliff are contained in the Board's licensure file, which was previously provided to you.
9. Any evidence that may be offered at hearing regarding Dr. Setliff is contained in the Board's licensure file, which was previously provided to you.
10. The Board's entire licensure file has previously been provided to you.

Respectfully submitted,

THOMAS J. MILLER
ATTORNEY GENERAL OF IOWA

Theresa D. Weeg

THERESA O'CONNELL WEEG

Assistant Attorney General

Hoover Bldg., 2nd Floor

Des Moines, Iowa 50319

Tel. (515) 281-6858

FAX: (515) 281-7551

Copy to:

Lisa C. Fosler

Augustine, Kern & Levens, Ltd.

218 North Jefferson, Suite 202

Chicago, IL 60661

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served on each of the attorneys of record of all parties in the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at his respective address as disclosed by the pleadings of record herein, with postage fully paid and by depositing said envelope in a United States Post Office depository in Des Moines, Iowa, on the

21 day of December 19 99
R. Sales

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE APPLICATION

FOR MEDICAL LICENSURE OF

REUBEN SETLIFF, M.D., APPLICANT

NO. 01-99-648

ANSWER TO DENIAL OF LICENSURE

NOW COMES REUBEN C. SETLIFF, M.D., by his out-of-state attorneys, Augustine, Kern and Levens, Ltd., and sets forth this Answer to Denial of Licensure.

1. Admit that Question 12 in Section 12 was inadvertently answered "No," but further state that:

- a. the application was prepared by a former employee who no longer works for Dr. Setliff;
- b. The "suspensions" with Great Plains Regional Hospital were technical only and were due to the brief enforcement of a seldom used provision calling for privilege suspensions for medical record lapses, a prevalent issue with many physicians. Dr. Setliff was not the only physician to have his privileges temporarily suspended, and he has had his privileges

suspended for no reason other than for "delinquent" medical records. Each time the suspensions were very short and the medical records were brought up to date.

c. As soon as Iowa Board staff requested information concerning the technical suspensions, before the denial of licensure, Dr. Setliff cooperated, and this was during the application process. It is clear he did not try to conceal the technical suspensions, but that it was overlooked due to the short term and technical nature of the suspensions.

d. Great Plains Regional Medical Center reported favorably about Dr. Setliff in relation to basic medical knowledge, professional judgment, sense of responsibility, clinical competence, technical skill, cooperativeness and ability to work with others, patient management, practitioner-patient relationship, ability to understand, speak and write English, participation in medical staff affairs and relationship with nursing staff.

2. Admit that Question 18 in Section 12 was inadvertently answered "No" on the application, but further state as follows:

- a. The complaints did not concern medical care, and there were no allegations related to quality of patient care. The complaints the South Dakota Board looked into were disputes related to medical fees and charges. The Board found neither gross incompetence nor unprofessional conduct and could therefore not invoke its disciplinary jurisdiction. The Board closed its investigation without taking any action against Dr. Setliff.
 - b. Since the South Dakota Board took no action in the matter, the necessity of including the inquiry was not apparent to the office worker who prepared the application.
 - c. As soon as Iowa Board staff requested information concerning the South Dakota inquiry (Letter dated July 1, 1999), before the denial of licensure, Dr. Setliff's office provided information and documents related to the matter, and this was during the application process.
3. Admit that Question 18 in Section 12 was inadvertently answered "No" on the application, but further state as follows:

- a. The Nebraska Department of Health and Human Services Regulation and Licensure ("NDHHS") requested that Dr. Setliff sign an "Assurance of Compliance" and such document was signed on February 5, 1999. The Assurance of Compliance was not a discipline on Dr. Setliff's medical license but related to medical records and reports and obtaining a second opinion before performing surgery on a child under 2 years of age.
- b. Dr. Setliff agreed to sign the Assurance of Compliance because it was not a discipline and he had already stopped performing the procedure in question in January 1997, two years prior to the Nebraska Compliance document.
- c. As stated in the Assurance of Compliance, this was NOT a disciplinary action. Dr. Setliff was cooperating with the NDHHS and did not want to take the time and resources to contest a matter that was not a discipline and where there were no specific allegations of a breach of the standard of care.
- d. Upon Respondent's information and belief, there were no claims of harm reported to the NDHHS prior to the request for the Assurance of Compliance.

- e. Dr. Setliff provided information regarding the Nebraska Assurance of Compliance when Iowa Board staff requested such information (Letter dated July 1, 1999), which was before the denial of licensure and during the application process.
- f. In retrospect, this should have been disclosed in the original application. However, since there was no hearing, no discovery, and no action taken in regards to the Assurance of Compliance, it did not seem to be a matter of importance to include in the original application nor did it seem to be relevant, as it was not a discipline but was a voluntary agreement.

AFFIRMATIVE STATEMENTS

- 1. Dr. Setliff regrets these omissions but states that they were unintentional and merely an oversight by an office-worker who is no longer employed by him.
- 2. Dr. Setliff asserts that all three matters were devoid of allegations related to quality of care.
- 3. As soon as additional materials were needed during the application process, Dr. Setliff complied with such requests and cooperated with the Board.
- 4. Dr. Setliff is an excellent physician with an outstanding reputation and the matters being considered herein are a

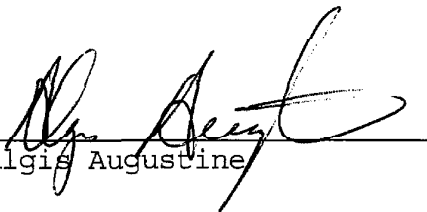
very small part of a much bigger picture in terms of his career.

5. An analysis of Dr. Setliff's application will reveal that his career has been virtually unmarked by allegations against him, lawsuits, or problems with privileges.
6. Dr. Setliff is qualified to receive an Iowa medical license and will abide by all rules and regulations if given that opportunity.

Respectfully submitted,

REUBEN C. SETLIFF, M.D.,

BY: Augustine, Kern and Levens,
Ltd., his out-of-state attorneys



Algis Augustine

Augustine, Kern and Levens, Ltd.
218 North Jefferson Street, Suite 202
Chicago, Illinois 60661
312/648-1111

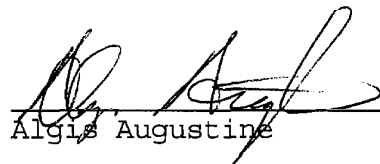
PROOF OF SERVICE

I, Algis Augustine, hereby certify that I caused a true and correct copy of the foregoing Answer to Denial of Licensure to be mailed via first class U.S. Mail, postage pre-paid, this 28th day of December, 1999, to:

Mr. Kent Nebel, Associate Director
Iowa Board of Medical Examiners
1209 East Court Avenue, Executive Hills West
Des Moines, Iowa 50319-0180

WITH A COPY TO:

Ms. Theresa Weeg, Assistant Attorney General
Iowa Department of Justice
Hoover State Office Building
Des Moines, Iowa 50319



Algis Augustine

Augustine, Kern and Levens, Ltd.
218 North Jefferson Street, Suite 202
Chicago, Illinois 60661
312/648-1111

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE APPLICATION

FOR MEDICAL LICENSURE OF

REUBEN SETLIFF, M.D., APPLICANT

NO. 01-99-648

PETITION TO APPEAR PRO HAC VICE

NOW COMES Augustine, Kern and Levens, Ltd., on behalf of
REUBEN C. SETLIFF, M.D., and requests that the Iowa Board of
Medical Examiners permit such out-of-state attorneys to appear on
behalf of Respondent in the above-references matter and as grounds
therefore, state as follows:

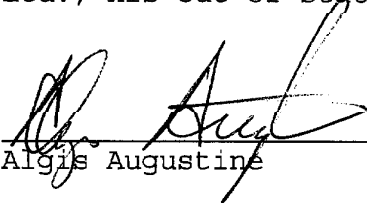
1. Augustine, Kern and Levens, Ltd. agrees to submit to
and comply with all provisions and requirements of the
Iowa Code of Professional Responsibility for Lawyers.
2. Augustine, Kern and Levens, Ltd. is in the process of
locating local counsel pursuant to Court Rule 113 but
does not want to delay these proceedings further and
requests that the enclosed "Answer to Denial of
Licensure" be filed instanter, with permission of the
Iowa Board of Medical Examiners.

3. If at any time the Iowa Board of Medical Examiners finds that this matter has been delayed due to the fact that pleadings are not served on an Iowa-licensed attorney, out-of-state counsel will promptly provide the name of Iowa counsel upon whom further pleadings may be served.

Respectfully submitted,

REUBEN C. SETLIFF, M.D.,

BY: Augustine, Kern and Levens,
Ltd., his out-of-state attorneys



Algis Augustine

Augustine, Kern and Levens, Ltd.
218 North Jefferson Street, Suite 202
Chicago, Illinois 60661
312/648-1111

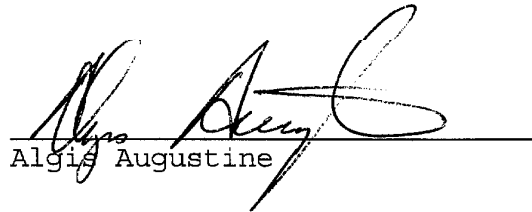
PROOF OF SERVICE

I, Algis Augustine, hereby certify that I caused a true and correct copy of the foregoing Petition to Appear Pro Hac Vice to be mailed via first class U.S. Mail, postage pre-paid, this 28th day of December, 1999, to:

Mr. Kent Nebel, Associate Director
Iowa Board of Medical Examiners
1209 East Court Avenue, Executive Hills West
Des Moines, Iowa 50319-0180

WITH A COPY TO:

Ms. Theresa Weeg, Assistant Attorney General
Iowa Department of Justice
Hoover State Office Building
Des Moines, Iowa 50319


Algis Augustine

Augustine, Kern and Levens, Ltd.
218 North Jefferson Street, Suite 202
Chicago, Illinois 60661
312/648-1111

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE DENIAL OF LICENSURE OF

RUEBEN SETLIFF, M.D., APPLICANT

NOTICE OF HEARING

TO THE ABOVE NAMED APPLICANT:

NOW on October 13, 1999, the Iowa Board of Medical Examiners, under the authority granted by § 17A.12, § 17A.18, § 147.2, § 147.10, §147.11 and § 258.A3 of the Iowa Code and 653-11.32(3) and 653-12.50 et. seq. of the Iowa Administrative Code hereby notifies the Respondent that a hearing on the denial of your application for licensure will be held on December 16, 1999, at 1:00 p.m., in a conference room located at the Four Points Hotel, 4800 Merle Hay Road, Des Moines, Iowa

You are hereby notified that this hearing will address the grounds for denial of the Application for Licensure.

You are also hereby notified that you may appear personally and be represented by counsel at your own expense, with the right to produce evidence in your behalf, to examine and cross-examine witnesses and to examine documentary evidence produced against you. If you fail to appear, the hearing will proceed and a decision will be made.

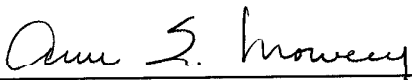
You are also hereby notified that within ten days of receipt of the Original Notice, you must acknowledge receipt of the attached Notice of Hearing, state whether you will be present at the hearing, state whether you will require an adjustment of the date and time of the hearing, and furnish the Board with a list of witnesses you wish to subpoena in compliance with Rule 653-12.50(13) of the Iowa Administrative Code.

You are also hereby notified that within twenty days of receipt of the Original Notice, you must file with the Board an answer of the type specified in Rule 653-12.50(14) of the Iowa Administrative Code.

You are also hereby notified that the office of the Attorney General is responsible for representation of the public interest in these proceedings. Copies of all pleadings should be served on counsel at the following address:

Theresa Weeg
Assistant Attorney General
Iowa Department of Justice
Hoover State Office Building
Des Moines, Iowa 50319
(515) 281-6858

IOWA BOARD OF MEDICAL EXAMINERS



Ann E. Mowery, Ph.D., Executive Director

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE APPLICATION

FOR MEDICAL LICENSURE OF

REUBEN SETLIFF, M.D., APPLICANT

No. 01-99-648

ORDER FOR CONTINUANCE

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COMES NOW the Iowa Board of Medical Examiners and upon the request of the Applicant,
files this Order For Continuance.

IT IS HEREBY ORDERED that the hearing pending in the above entitled action currently
scheduled for December 16, 1999, is continued until further order.

This order dated November 23, 1999.

IOWA BOARD OF MEDICAL EXAMINERS



Ann E. Mowery, Ph.D.
Executive Director
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686
Phone 515-242-6309

c: Ann E. Mowery, PhD, Executive Director
Theresa O'Connell Weeg, Esq., Assistant Attorney General
Presiding Administrative Law Judge
Investigator

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

REUBEN SETLIFF, M.D., APPLICANT

No. 02-96-170

NOTICE OF HEARING

You are hereby notified that on September 29, 1999, the Iowa Board of Medical Examiners denied your application for medical licensure pursuant to Iowa Code chapters 17A, 147, 148 and 150 (1999) and 653 IAC chapter 11. A copy of the Notice of Denial is attached, and sets forth the grounds for denial.

IT IS HEREBY ORDERED that a hearing be held on your appeal of the Board's Notice of Denial on February 10, 1999. The hearing shall begin at 1:00 p.m., and shall be held in a conference room located at the Board's office, 400 SW 8th Street, Suite C, Des Moines, Iowa. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the Board at hearing.

Pursuant to Iowa Code section 17A.11 (1999 Code Supp.) and 653 IAC 12.15, you may request that an administrative law judge serve as presiding officer rather than the Board, and issue a proposed decision that may then be appealed by either party to the full Board. This request must be filed with the Board within twenty days after service of this notice of hearing.

At hearing you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the grounds for denial. The procedural rules governing

the conduct of the hearing are found at 653 IAC chapter 11.35 and 12.13 –12.36.

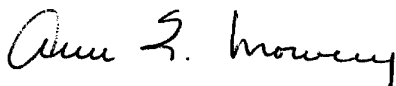
The office of the Attorney General is responsible for representation of the public interest (the State) in these proceedings. Copies of all pleadings filed with the Board should be provided to counsel for the State at the following address:

Theresa O'Connell Weeg, Esq.
Assistant Attorney General
Iowa Department of Justice
Hoover State Office Building
Des Moines, IA 50319
Phone 515-281-6858

If you fail to appear at hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) (1999 Supp.) and 653 IAC 112.28.

If you have any questions regarding this matter please contact Kent M. Nebel, J.D., Director of Compliance, at 515-281-7088.

IOWA BOARD OF MEDICAL EXAMINERS



Ann E. Mowery, Ph.D.
Executive Director
Iowa Board of Medical Examiners
400 SW 8th Street, Suite C
Des Moines, IA 50309-4686

c: Theresa O'Connell Weeg, Esq., Assistant Attorney General
Presiding Administrative Law Judge
Assigned Investigator

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE APPLICATION

FOR MEDICAL LICENSURE OF

REUBEN SETLIFF, M.D., APPLICANT

No. 01-99-648

ORDER FOR CONTINUANCE

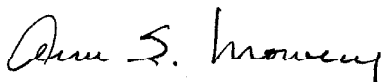
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COMES NOW the Iowa Board of Medical Examiners and upon the request of the Applicant, files this Order For Continuance.

IT IS HEREBY ORDERED that the hearing pending in the above entitled action currently scheduled for February 10, 2000, is continued until further order.

This order dated January 2, 2000.

IOWA BOARD OF MEDICAL EXAMINERS



Ann E. Mowery, Ph.D.
Executive Director
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

c: Theresa Weeg, Assistant Attorney General
Presiding Administrative Law Judge
Investigator

**BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA**

**IN THE MATTER OF THE APPLICANT
FOR MEDICAL LICENSURE OF
RUEBEN SETLIFF, M.D., APPLICANT**

No. 01-99-648

NOTICE OF DENIAL OF LICENSURE

TO: RUEBEN SETLIFF, M.D.

YOU ARE HEREBY NOTIFIED, that pursuant to the provisions of section 147.4 of the 1999 Code of Iowa, on September 29, 1999, the Iowa Board of Medical Examiners (the Board), denied your application for a permanent Iowa license to practice medicine and surgery. The denial is based upon the following:

- 1) On your Application for Permanent Medical License for the State of Iowa, you answered "No" to Question 12 in Section 12 which states, "Aside from ordinary initial requirements of proctorship, have your clinical privileges or medical staff status at any hospital or health care entity, nursing facility, clinic, or other professional health care organization ever been limited, suspended, revoked, not renewed, voluntarily relinquished, or subject to other disciplinary or probationary conditions?"

The Board has information that in 1997, your hospital privileges were suspended three times within twelve months for delinquent records, and you were required to reapply for staff appointment and privileges.

As part of your Application for Permanent Iowa Medical License, you signed an Affidavit of Application verifying that you understood the instructions of the application and that all answers and statements were true and correct.

- 2) On your Application for Permanent Iowa Medical License for the State of Iowa, you answered "No" to Question 18 in Section 12 which states, "Have you ever been investigated or subject to an inquiry/review by any medical/osteopathic licensing agency, including investigations or reviews which resulted in no formal action(s)?"

On August 31, 1998, the South Dakota State Board of Medical and Osteopathic Examiners notified you that it had "...received numerous complaints from several dissatisfied patients." An investigative committee was assigned regarding these complaints. You were sent a letter on September 3, 1998 as to your meeting date with the investigative committee. These complaints did not result in formal action by the South Dakota Board.

As part of your Application for Permanent Iowa Medical License, you signed an Affidavit of Application verifying that you understood the instructions of the application and that all answers and statements were true and correct.

3) The Nebraska Department of Health and Human Services Regulation and Licensure issued an Assurance of Compliance letter to you on February 9, 1999. The Nebraska Medical Board "reviewed 13 pediatric surgical cases, including a separate expert review by an otolaryngologist consultant retained by the Medical Board." The Board had concerns about inadequate preoperative histories and operative reports, as well as concerns about the medical necessity of many of the surgeries, specifically adenoidectomies on young children. The Nebraska Medical Board required that you obtain a second opinion on future surgeries on children under the age of 2 to assure the medical necessity.

Pursuant to the provisions of 653 IAC 11.34, you may appeal the Board's denial of licensure by serving a notice of appeal and request for hearing on the Board's executive director not more than thirty days from the date of this notice. A photocopy of this rule is attached.

Dated: November 10, 1999.

IOWA BOARD OF MEDICAL EXAMINERS

Dale R. Holdiman MD

Dale Holdiman, M.D., Chairperson

Iowa Board of Medical Examiners

400 SW 8th St., Suite C

Des Moines, IA 50309-4686